

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In the Matter of

Amendment of Part 90  
of the Commission's Rules  
Governing Extended  
Implementation Periods

)  
) PR Docket No. 92-210  
)  
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To: The Commission

REPLY COMMENTS  
OF  
SOUTHERN CALIFORNIA EDISON COMPANY

Southern California Edison Company ("SCE"), by its attorneys and pursuant to Section 1.415 of the Commission's rules, hereby respectfully submits these Reply Comments in response to the Comments filed thereon.

I. DISCUSSION

A. **SCE Strongly Encourages the Commission to Continue its Flexible Approach Towards Modification of Implementation Schedules**

1. As SCE mentioned in its initial Comments, the utility supports the Commission's proposed rule changes and generally welcomes their adoption. However, several Commenters have raised points which concern SCE and to which

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SCE feels compelled to respond. For instance, APCO opposes elimination of the annual reporting requirement; CICS asks that there be a vigorous program for monitoring compliance with implementation schedules; and NABER notes that arguably a slow growth system could be subject to Finder's Prefer Requests 180 days after the licensee misses an implementation benchmark.<sup>1/</sup>

2. SCE obviously does not oppose rules which require a slow growth licensee to abide by its schedule. However, SCE again urges the Commission to continue its flexible approach in allowing slow growth licensees to modify their schedules over time.<sup>2/</sup> Slow growth licensees are granted extended implementation authority initially because they have demonstrated their need for additional time to construct and place facilities in operation, 47 C.F.R. § 90.629. In other words, the slow growth rule itself recognizes that these licensees require and deserve regulatory flexibility. To turn around and impose strict

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<sup>1/</sup> See Comments of Associated Public-Safety Communications Officers, Inc. ("APCO") at p. 5; Comments of Council of Independent Communication Suppliers ("CICS") at p. 10; and Comments of National Association of Business and Educational Radio, Inc. ("NABER") at p. 9.

<sup>2/</sup> This position is also supported by Fleet Call and the Utilities Telecommunications Council ("UTC"). See Comments of Fleet Call at p. 6; and Comments of UTC at p. 8.

adherence to a schedule on them only disservices the rule's intent.

3. NABER's suggestion that, under the proposed rules, the Commission could allow a Finder's Preference filing 180 days after a failure to meet a construction/operational benchmark is particularly troublesome.<sup>3/</sup> SCE strongly believes the rules should not be interpreted to allow such requests. Again, the Commission has allowed licensees to regularly modify their implementation schedules to account for changed circumstances, including delays caused by problems with site acquisition, permitting, equipment delivery, weather, and funding. Licensees are granted "slow growth" status so that they can adjust to the above challenges, not so that they can be punished for them.

4. Allowing Finder's Preference Requests to be filed during a licensee's implementation period not only would limit this flexibility, but it would undermine the Commission's goal of reducing the regulatory burdens which the slow growth mechanism engenders. If Preference Requests were allowed, the Commission undoubtedly would be inundated with such Requests as speculators hunt for "free" spectrum.

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<sup>3/</sup> Comments of NABER at p. 10.

Unfortunately, they likely would be hunting at the same time slow growth licensees would be modifying their implementation schedules. Scarce Commission resources then would be wasted in reviewing a Request which had failed to consider the most recent and up-to-date schedules.

5. In the end, SCE agrees that implementation schedules should be subject to review, but, in the event of unforeseeable delays, it urges the Commission to work with licensees not against them.

**B. The Commission Should Ensure that the Proposed Loading Rule Covers Existing Slow Growth Licensees**

6. SCE is encouraged that the vast majority of Commenters who addressed the issue support the Commission's proposal to subject slow growth licensees to the more lenient 70-unit loading requirement.<sup>4/</sup> This is an equitable solution to a problem that has often resulted in inequitable treatment to those licensees with extended implementation status. However, along with other Commenters,<sup>5/</sup> SCE must re-emphasize the importance of applying the new 70-unit standard to existing and soon-to-be licensed 800/900 MHz

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<sup>4/</sup> See, e.g., Comments of UTC at p. 8; Comments of CICS at p. 9.

<sup>5/</sup> See, e.g., Comments of CICS at p. 11.

systems. Not making this clarification would continue the trend of inequitable treatment currently associated with this rule.

**C. SCE Supports Extending the Slow Growth Term to Five Years, It Supports Standards for Slow Growth SMRs, and It Does Not Share APCO's Concerns Regarding Public Safety Channels**

7. Along with most of the other Commenters, SCE supports extending the slow growth term from three to five years. Once again, this proposal underscores the Commission's commitment to unique treatment of extended implementation licensees. Five years is a more realistic goal for completion of these often large, complex systems. The American Mobile Telecommunications Association, Inc. ("AMTA") has expressed reservations about such extensions,<sup>6/</sup> and SCE recognizes that the Commission may opt to enact stricter standards for attaining that longer length of time. However, the ability to attain five years' authority by rule would greatly alleviate unnecessary regulatory burdens which licensees of extremely large systems face.

8. Additionally, several Commenters have argued that Specialized Mobile Radio ("SMR") applicants for extended implementation should only be afforded "slow

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<sup>6/</sup> Comments of AMTA at p. 7.

growth" authority if the systems are especially complex.<sup>7/</sup> SCE supports this refinement to the Commission's proposal since it discourages spectrum warehousing, and yet still provides appropriate relief to those SMR applicants who are proposing innovative and complex systems.

9. APCO has commented that extended slow growth authority would encourage spectrum hoarding.<sup>8/</sup> Consequently, APCO urges the Commission to prohibit non-public safety entities from incorporating Public Safety channels into their slow growth systems, unless the Public Safety channels are built within one year of licensing.<sup>9/</sup> SCE does not share this view. APCO has not made any showing of the spectrum misuse it alleges. Further, the inter-category sharing of Public Safety channels actually promotes spectrum use and efficiency -- previously unused Public Safety channels are made available to entities that need the frequencies for communications services.

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<sup>7/</sup> See, e.g., Comments of CICS at p. 5.

<sup>8/</sup> Comments of APCO at p. 3.

<sup>9/</sup> Id. at p. 4.

**WHEREFORE, THE PREMISES CONSIDERED,** Southern California Edison Company submits the foregoing Reply Comments and urges the Federal Communications Commission to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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**Dated: December 15, 1992**

**CERTIFICATE OF SERVICE**

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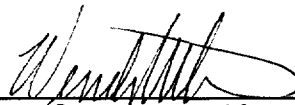
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